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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 140106010-4358-02]

RIN 0648-XD069

Fisheries of the Northeastern United States; Atlantic Deep-Sea Red Crab Fishery; 2014-2016

Atlantic Deep-Sea Red Crab Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues final specifications for the 2014-2016 Atlantic deep-sea red crab fishery, including an annual catch limit and total allowable landings. This action establishes the allowable 2014-2016 harvest levels and other management measures to achieve the target fishing mortality rate, consistent with the Atlantic Deep-Sea Red Crab Fishery Management Plan.

DATES: The final specifications for the 2014-2016 Atlantic deep-sea red crab fishery are effective [insert date 30 days after the date of publication in the FEDERAL REGISTER], through February 28, 2017.

ADDRESSES: Copies of the specifications document, including the Amendment 3 Environmental Assessment and Initial Regulatory Flexibility Analysis (EA/IRFA) and other supporting documents for the specifications, are available from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The specifications document is also accessible via the Internet at:

<http://www.nero.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Carly Bari, Fishery Management Specialist,
(978) 281-9224.

SUPPLEMENTARY INFORMATION:

Background

The Atlantic deep-sea red crab fishery is managed by the New England Fishery Management Council. Regulations implementing the Atlantic Deep-Sea Red Crab Fishery Management Plan (FMP) appear at 50 CFR part 648, subparts A and M. The regulations requiring specifications are found at § 648.260.

The FMP requires the Council to recommend the annual catch limit (ACL) and total allowable landings (TAL) that will control the fishing mortality rate (F) for up to three years. Estimates of stock size, coupled with the target F, allow for a calculation of acceptable biological catch (ABC), which is recommended by the Council's Scientific and Statistical Committee (SSC). The annual review process for red crab requires that the SSC review and make recommendations based on the best available scientific information, including catch/landing statistics, current estimates of fishing mortality, stock abundance, and juvenile recruitment. Based on the recommendations of the SSC, the Council makes a recommendation to the NMFS Regional Administrator.

The Council's recommendations must include supporting documentation concerning the environmental, economic, and social impacts of the recommendations. NMFS is responsible for reviewing these recommendations to assure that they achieve the FMPs objectives, and may modify them if they do not. NMFS then publishes proposed specifications based on the recommendations in the Federal Register, and after considering public comment, NMFS

publishes final specifications in the Federal Register. A proposed rule for this action published in the Federal Register on March 11, 2014 (79 FR 13607), and comments were accepted through March 26, 2014.

The FMP was first implemented in October 2002 and was originally managed under a target total allowable catch (TAC) and days-at-sea (DAS) system that allocated DAS equally across the fleet of limited access permitted vessels. Amendment 3 to the FMP removed trip limit restrictions, and replaced the target TAC and DAS allocation with a TAL in order to ensure consistency with the ACL and accountability measure requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Under Amendment 3, the 2011-2013 red crab specifications were set with an ABC equal to the long-term average landings of the directed red crab fishery (3.91 million lb, 1,775 mt), due to the lack of better scientific information on the red crab stock.

Final Specifications

Biological and Management Reference Points

Deep-sea red crab is a data poor stock. Estimates of a sustainable yield are based on the average catch in the fishery. Because discards in the red crab fishery are poorly estimated, the relationship between catch and landings is somewhat uncertain, so average landings are used, adjusted by fishery-independent estimates of the degree of stock depletion since inception of the fishery. This estimate, however, cannot be used for determining MSY or another OFL proxy, so OFL was determined to be unknown. There has not been an update to the red crab assessment and the MSY and the OFL remain unknown.

2014-2016 Catch Limits

The Council's recommendation for the 2014-2016 red crab specifications are based on

the results of the most recent peer-reviewed assessment of the red crab fishery carried out by the Data Poor Stocks Working Group in 2009 and recommendations from the SSC. Other information considered included recent landings, landings per unit of effort, port samples, discard information, and economic data that suggest there has been no change in the size of the red crab stock since Amendment 3 was implemented in 2011.

In the absence of a new stock assessment or other information, on August 21, 2013, the Council's SSC recommended the status quo ABC for fishing years 2014-2016 of 1,775 mt for the directed fishery, which is equal to the long-term average landings of the directed red crab fishery for fishing years 2011-2013. The SSC concluded that the historical landings of male red crab and historical discarding practices appear to be sustainable and that an interim ABC based on long-term average landings is safely below an undetermined overfishing threshold and adequately accounts for scientific uncertainty. The Council agreed with this conclusion and recommended a TAL at the same levels as currently in effect under Amendment 3. Therefore, the specifications for the 2014-2016 fishing years are as follows:

	mt	Million lb
MSY	undetermined	
OFL	undetermined	
OY	undetermined	
ABC	1,775	3.91
ACL	1,775	3.91
TAL	1,775	3.91

Comments and Responses

The public comment period for the proposed rule ended on March 26, 2014. No comments were received on the proposed rule.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the Atlantic Deep-Sea Red Crab FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule is exempt from review under Executive Order 12866.

This final rule does not duplicate, conflict, or overlap with any existing Federal rules.

The FRFA included in this final rule was prepared pursuant to 5 U.S.C. 604(a), and incorporates the IRFA and a summary of analyses completed to support the action. A public copy of the EA/RIR/IRFA is available from the Council (see ADDRESSES).

The preamble to the proposed rule included a detailed summary of the analyses contained in the IRFA, and that discussion is not repeated here.

Final Regulatory Flexibility Analysis

Statement of Objective and Need

A description of the reasons why this action is being taken, and the objectives of and legal basis for this final rule are contained in the preambles to the proposed rule and this final rule and are not repeated here.

Summary of Significant Issues Raised in Public Comments

No comments were submitted on the proposed rule. Therefore, none were specific to the IRFA or to the economic impacts of the proposed rule more generally.

Description and Estimate of Number of Small Entities to Which the Rule will Apply

All of the entities (fishing vessels) affected by this action are considered small entities under the Small Business Administration size standards for small shellfishing businesses (i.e., they have less than \$5.0 million in annual gross sales). Therefore, there are no disproportionate effects on small versus large entities.

The participants in the commercial red crab fishery were defined as those vessels issued limited access red crab permits. Information about vessel ownership has been made available for all federal permit holders, which allows for the identification of business entities that comprise multiple fishing vessels. As of December 2013, there are two business entities and four vessels with limited access red crab permits actively operating in the red crab fishery. The total value of landings from all sources from 2010 to 2012 averaged \$3.46 million, so all business entities in the harvesting sector can be categorized as small businesses for the purpose of the RFA.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

No additional reporting, recordkeeping, or other compliance requirements are included in this final rule.

Description of the Steps Taken to Minimize Economic Impact on Small Entities

Specification of commercial quota is constrained by the conservation objectives of the FMP, under the authority of the Magnuson-Stevens Act. The 2014-2016 specifications will affect all business entities and four vessels in the directed red crab fishery. However, this rule is not expected to have any impact on the gross or average revenues for the fishery because it does not change the total allowable landings level, which remains 3.91 million lb (1,775 mt). This harvest level is substantially higher than average landings in recent years (3.10 million lb (1,404 mt) from fishing years 2010-2012), and is not expected to constrain landings unless markets for red crab substantially improve or major new markets develop.

Information on costs in the fishery is not readily available and individual vessel profitability cannot be determined directly; therefore, expected changes in gross revenues were used as a proxy for profitability. For the four participating vessels in 2010-2012, average total sales were \$865,272 per vessel per year. Because this action will retain current harvest levels, it

will not directly constrain or reduce the gross revenues per vessel, nor will it impact the profits of individual vessels. Therefore, it is not necessary to analyze impacts according to the dependence of each vessel in the red crab fishery.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as “small entity compliance guides.” The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide will be sent to all holders of Federal permits issued for the Atlantic deep-sea red crab fishery.

In addition, copies of this final rule and guide (i.e., permit holder letter) are available upon request, and posted on the Greater Atlantic Regional Fisheries Office’s website at www.nero.noaa.gov.

Authority: 16 U.S.C. 1801 et seq.

Dated: April 24, 2014

Eileen Sobeck,
Assistant Administrator for Fisheries,
National Marine Fisheries Service.

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